

BANKING AND FINANCIAL INSTITUTIONS

Subchapter 17

Mortgage Broker and Loan Originator Licensing

2.59.1701 DEFINITIONS For purposes of the Montana Mortgage Broker and Loan Originator Licensing Act and this subchapter, the following definitions apply:

(1) "Another person involved in the transaction" means a licensee, the borrower's employer, the lender, the real estate agent, or other persons or entities allowed by the lender guidelines.

(2) "Conviction" means a judgment of conviction or sentence entered upon a plea of guilty or nolo contendere or upon a verdict or finding of guilty of an offense rendered by a legally constituted jury or by a court of competent jurisdiction authorized to try the case without a jury.

(3) "Employed by" means:

(a) an individual performing a service for a mortgage broker liable for withholding taxes pursuant to Title 26 of the United States Code; or

(b) any individual acting as an independent contractor for a mortgage broker if that individual is under exclusive written agreement to broker loans only through their sponsoring mortgage broker or if the sponsoring mortgage broker undertakes accountability for the regulated mortgage loan activities of the independent contractor.

(4) "Fraud or dishonesty" means, but is not limited to:

(a) a conviction, under the laws, rules, or regulations of any state or the federal government, that relates to fraud or dishonesty; or

(b) a conviction that involves robbery, illegal gambling, receiving stolen property, counterfeiting, extortion, check, credit card, or computer violations set forth in criminal laws, deception, fraud, theft, embezzlement, defrauding a creditor, issuing a bad check, deceptive practices, deceptive business practices, misappropriation of funds or property, misrepresentation, omission of material facts, unauthorized use of property, forgery, identity theft, or money laundering.

(5) "Fraudulent or dishonest dealings" means, but is not limited to:

(a) a civil judgment, under the laws, rules, or regulations of any state or the federal government, that relates to fraud or dishonesty; or

(b) a civil judgment that involves deception, fraud, conversion, misappropriation of funds, misrepresentation, omission of material facts, forgery, unauthorized use of money or property, failure to pay taxes, or bad checks.

(6) "Initiation of an investigation" means any administrative, civil, or criminal proceeding initiated by a state, municipal or federal governmental entity, the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Agency and such proceeding is evidenced by a written formal complaint or charge filed by the investigating agency.

(7) "Material change" means:

(a) a change in the physical location of the principal location and/or branch office;

(b) a change in the phone number;

(c) a change in the nature of the business;

(d) a change in the board of directors or the principal officers;

(e) a change in the share ownership of the company of 10% or more;

(f) the acquisition or disposition of another company;

- (g) any civil action involving fraud or dishonesty has been filed against the licensee;
- (h) any criminal charge has been filed against the licensee; or
- (i) any change which would cause the department not to issue a license, if it had occurred before licensure.

(8) "Mortgage broker entity" means corporation, limited liability corporation, partnership, limited liability partnership or any other organization other than a sole proprietorship.

(9) "Restitution" may include, but is not limited to, refunds of any or all the fees paid directly or indirectly by the borrower.

(10) "Table funding" means the closing of a loan naming a mortgage broker, a mortgage broker's business entity or a loan originator as the lender on the mortgage loan note, which note is then sold within three business days of closing to another party.

(11) "Work in a related field" means:

(a) for a mortgage broker, three years:

(i) as a mortgage broker, a branch office manager of a mortgage broker business;

(ii) as a mortgage banker, or responsible individual or branch manager of a mortgage banking business;

(iii) as a real estate loan officer;

(iv) as a branch manager of a real estate lender;

(v) as a loan originator; or

(vi) as a mortgage broker licensee in another state where the licensing standards are substantially similar to those in this state, as determined by the department; and

(b) for a loan originator, six months:

(i) as a loan originator in a mortgage broker business;

(ii) as a loan originator in a mortgage banking business;

(iii) as a real estate loan officer;

(iv) as a loan originator licensee in another state where the licensing standards are substantially similar to those in this state, as determined by the department;

(v) as a real estate loan processor;

(vi) as a residential real estate loan closing agent; or

(vii) as a state or federal regulator that examines compliance of residential mortgages of state or federally chartered financial institutions. (History: 32-9-130, MCA; IMP, 32-9-103, 32-9-109, 32-9-115, 32-9-116, 32-9-117, 32-9-123 32-9-125, 32-9-133, MCA; NEW, 2004 MAR p. 1133, Eff. 5/7/04; AMD, 2005 MAR p. 320, Eff. 2/25/05; AMD, 2008 MAR p. 2034, Eff. 9/26/08.)

2.59.1702 PROOF OF EXPERIENCE (1) Satisfactory proof of experience is:

(a) copies of W-2 or 1099 tax forms verifying employment; or

(b) copies of paystubs. (History: 32-9-130, MCA; IMP, 32-9-108, 32-9-109, MCA; NEW, 2004 MAR p. 1133, Eff. 5/7/04; AMD, 2008 MAR p. 2034, Eff. 9/26/08.)

2.59.1703 TRANSFER OF LOAN ORIGINATOR OR MORTGAGE BROKER LICENSE (1) Transfer of an individual mortgage broker or loan originator license must be approved by the department. To transfer an individual mortgage broker or loan originator license, the individual mortgage broker or loan originator shall obtain

a relocation application from the department. The completed relocation application must be accompanied by a nonrefundable processing fee of \$50.

(a) If a license is not transferred within six months and has been canceled, a complete new application with all required information must be submitted along with the appropriate new application fees and supporting documentation.

(b) If the lapse in employment occurs over a renewal period, the individual mortgage broker or loan originator license must be renewed as required by 32-9-117, MCA, to qualify for a transfer of the license. The relocation six-month time frame would remain in effect and would be from the date of termination.

(2) If an individual mortgage broker or loan originator is terminated by a mortgage broker, and within six months is re-employed by the same mortgage broker, a request for reinstatement form must be filed with the department. The form is available from the department. There is a \$10 processing fee for reinstatement. If the break in employment occurs over a renewal period, the individual mortgage broker or loan originator license must be renewed as required by 32-9-117, MCA, to qualify for reinstatement. The six-month time frame would remain in effect and would be from the date of termination. (History: 32-9-130, MCA; IMP, 32-9-115, 32-9-116, 32-9-117, 32-9-119, MCA; NEW, 2004 MAR p. 1133, Eff. 5/7/04; AMD, 2008 MAR p. 2034, Eff. 9/26/08.)

2.59.1704 LICENSE RENEWAL (1) Effective July 1, 2008, the renewal fees shall be \$500 for mortgage broker entities that are not sole proprietorships, \$500 for individual mortgage brokers and sole proprietors and \$400 for loan originators. An individual renewing licensure as a mortgage broker and who is also the sole owner of an entity renewing its license shall only be subject to the individual mortgage broker renewal fee. All fees are nonrefundable and must be submitted with the renewal application. The renewal application forms will be sent by the department to each licensed mortgage broker or loan originator in April. The application must be postmarked or received by May 31.

(2) The individual mortgage broker or loan originator application must be completed, signed, and dated by the applicant and may not be signed on behalf of or in lieu of the applicant. The signed and dated page of the application must be submitted in the application package or renewal application package to the department.

(a) For application of a mortgage broker entity that is a sole proprietorship, the owner must complete, sign, and date as the applicant.

(b) For application of a mortgage broker entity that is a partnership, any partner may complete, sign, and date as the applicant.

(c) For application of a mortgage broker entity that is an LLC, or corporation, or incorporation, the person responsible for the application must complete, sign, and date as the applicant.

(3) The renewal application must be accompanied by a copy of the certificate of completion provided by the approved education provider that the continuing education requirement has been met and a recent credit report from one of the three recognized credit reporting agencies. They are Experian, Equifax, and Transunion. The credit report must be dated within 60 days of receipt of renewal application.

(4) Mortgage brokers must include evidence of an irrevocable letter of credit or surety bond for each location.

(5) Mortgage brokers or loan originators shall continuously satisfy all requirements of initial licensure to be eligible for renewal. A renewal application may not be processed or granted until all required information is received.

(6) Failure to renew licenses by May 31 but before July 1 will result in a \$250 late fee per license in addition to regular renewal fees.

(7) If the attempt to renew is after June 30, the license is considered revoked. Revocation terminates the right to engage in any residential mortgage broker or loan originator activities. The mortgage broker or loan originator must then apply as a new licensee.

(8) The department will not accept applications for original licensure of mortgage brokers or loan originators in the months of May and June because of the volume of license renewals during those months.

(9) All renewal applications shall certify that the licensee has paid any civil penalties, fines, and restitution amounts imposed against the licensee. Failure to pay a fine, penalty, or judgment assessed against the licensee is sufficient grounds to deny a request for renewal.

(10) If the renewal application or the investigation related to the renewal application discloses additional information that would have been sufficient grounds to deny, suspend, or revoke the license, if it had been known at the time of original licensure, the license shall be denied, suspended, or revoked on that basis.

(History: 32-9-130, MCA; IMP, 32-9-115, 32-9-116, 32-9-117, 32-9-118, 32-9-123, MCA; NEW, 2004 MAR p. 1133, Eff. 5/7/04; AMD, 2005 MAR p. 320, Eff. 2/25/05; AMD, 2008 MAR p. 2034, Eff. 9/26/08.)

2.59.1705 LICENSING EXAMINATION AND CONTINUING EDUCATION PROVIDER REQUIREMENTS (1) A licensee shall receive credit for participation in a continuing education course if it is presented by a provider approved by the department and the department has approved the continuing education program pursuant to this rule.

(2) To receive approval of a licensing examination or continuing education course, the examination or course provider must file an application with the department, which includes, but is not limited to the following items:

(a) course brochures, outlines, schedules, lesson plans, visual presentations, and course description (including a breakdown of time spent on each topic);

(b) a complete list of all examiners or instructors for the course, including their qualifications and experience with examinations and teaching courses similar to the course submitted for approval;

(c) a complete set of the examination or curriculum materials. Materials will be retained by the department. Electronic format is acceptable;

(d) company history;

(e) sample course certificate of completion which must include, at a minimum;

(i) company name;

(ii) date of course;

(iii) course title;

(iv) instructor's signature;

(v) licensee's name; and

(vi) licensee's license number;

(f) list of other states in which approval to provide similar education is held; and

(g) a satisfactory timing method to properly monitor licensee's attendance and attention for the approved hours of the course.

(3) All instructors must have a minimum of five years of experience working as a mortgage broker, loan originator, mortgage banker, or work in a related field.

(4) The provider must submit, within 15 days of the end of the course, a class roster of licensees who successfully completed the course.

(5) Courses and licensing examinations must reflect the activities performed by applicants or licensees and must provide applicants or licensees with a basic knowledge of and competency in any of the following:

(a) the following federal regulations:

(i) Real Estate Settlement Procedures Act;

(ii) Truth in Lending Act;

(iii) Equal Credit Opportunity Act;

(iv) Fair Credit Reporting Act;

(v) Fair Housing Act;

(vi) Home Mortgage Disclosure Act;

(vii) Gramm-Leach-Bliley Act; or

(viii) the regulations promulgated pursuant to these acts;

(b) ethics in the mortgage industry;

(c) features of various loan products;

(d) state and federally required disclosures;

(e) the Montana Mortgage Broker and Loan Originator Licensing Act;

(f) Administrative Rules of Montana Title 2, chapter 59, subchapter 17; or

(g) other state and federal laws applicable to the mortgage broker industry.

(6) Appropriate subjects for licensing examinations may include:

(a) the Montana Mortgage Broker and Loan Originator Licensing Act;

(b) state and federal consumer protection acts;

(c) the federal Real Estate Settlement Procedures Act, Truth in Lending Act, Equal Credit Opportunity Act, Fair Credit Reporting Act, Fair Housing Act, Home Mortgage Disclosure Act, Community Reinvestment Act, and the regulations promulgated pursuant to these acts;

(d) trust account and recordkeeping requirements of the Montana Mortgage Broker and Loan Originator Licensing Act;

(e) real estate and appraisal law;

(f) arithmetical computation common to mortgage lending, including but not limited to:

(i) the computation of an annual percentage rate;

(ii) finance charges;

(iii) amount financed;

(iv) payment and amortization;

(v) credit evaluation; and

(vi) calculating debt-to-income; and

(g) ethics in the mortgage industry.

(7) Approved courses may be offered through the Internet or through a classroom setting in which teachers and participants are physically present for the teaching of a course. Correspondence or mail courses will not be accepted.

(8) The provider shall file an application with the department that includes a copy of examinations to be used, if any, in determining satisfactory comprehension of the contents of the course and the grading scale to be used. Any new or revised courses, examinations, or grading scales to be used shall be submitted to the department for approval at least 60 days prior to use. Course materials may be submitted in electronic format. The department will consider examinations and continuing education disseminated by written or electronic means, including by the internet.

(9) The department shall review applications filed and determine whether to approve or deny the proposed provider. If the department approves the course or

provider, the department shall issue a certificate of approval that will be effective for two years from the date of issuance.

(10) The department shall provide a list of approved continuing education providers.

(11) A course provider that desires to renew the certificate of approval must apply to the department and file the items required in (2) no later than 60 days before the certificate expires.

(12) The department may audit an approved course or examination at any time. If the course provider or examination administrator has not complied with the requirements of this rule, the department may suspend or terminate the approval and require the surrender of the certificate of approval.

(13) The department may deny, revoke, suspend or terminate approval of any provider or individual course upon a finding that:

(a) any provider officer or employee who has obtained or used, or has attempted to obtain or use, in any manner or form, the examination questions for any purpose other than instruction;

(b) during any six-month period, fewer than 50% of the provider's program students taking the examination for the first time achieve a passing score;

(c) the provider failed to comply with any provision of this rule;

(d) the provider fails to take reasonable steps to ensure that the licensee spends the allotted hours in the course; or

(e) the provider has not conducted at least one continuing education program during the preceding 24-month period.

(14) The provider is entitled to a hearing on the denial, suspension, or revocation held under the Montana Administrative Procedure Act, Title 2, chapter 4, part 6, MCA. The provider shall request a hearing within ten days of the date the notice of findings is sent to them. The notice shall be served on the provider at its last known address by certified mail.

(15) A provider shall designate one person as its contact person who shall be available to the department during ordinary business hours and shall be knowledgeable and have authority to act with regard to all administrative matters concerning instructors, scheduling, advertising, recordkeeping, and supervising all programs offered by the provider.

(16) Providers shall not use any words, symbols or other means to indicate that either the provider or a program has received the department's approval unless such approval has been issued and remains in effect.

(17) The fee for review of an initial and biennial education provider application is \$100 for the application fee and \$50 for each continuing education credit hour requested. All fees are nonrefundable and must be submitted with the application.

(18) An education course relative to commercial lending, commercial loan brokering, or mortgage banking may not be used to satisfy continuing education requirements under this subchapter.

(19) An education provider shall maintain student records for three years.

(20) A continuing education course from another state shall satisfy the continuing education requirement if the department has approved the course for continuing education in this state. (History: 32-9-130, MCA; IMP, 32-9-110, 32-9-118, MCA; NEW, 2004 MAR p. 1133, Eff. 5/7/04; AMD, 2006 MAR p. 2104, Eff. 9/8/06; AMD, 2008 MAR p. 2034, Eff. 9/26/08.)

2.59.1706 IRREVOCABLE LETTER OF CREDIT OR SURETY BOND

(1) If using an irrevocable letter of credit, the letter of credit shall be from a financial institution acceptable to the department. The entity name on the application and on the irrevocable letter of credit must match exactly.

(2) If using a surety bond, the bond shall be issued by a surety authorized to do business in the state of Montana. The bond, including any and all riders and endorsements executed subsequent to the effective date of the bond, shall be placed on file with the department. The entity name on the application and on the surety bond must match exactly. The bond shall be continuous and may be cancelled by the surety upon the surety giving 30 days written notice to the department of its intent to cancel the bond. Whether or not the bond is renewed, continued, reinstated, reissued, or otherwise extended, replaced, or modified, including increases or decreases in the penal sum, it shall be considered one continuous obligation, and the surety upon the bond shall not be liable in an aggregate or cumulative amount exceeding the penal sum set forth on the face of the bond.

(3) The department or any person injured by a violation of this act may bring an action in a court of competent jurisdiction against the surety bond or approved alternative of the licensed mortgage broker who committed the violation or who employed or engaged the loan originator who committed the violation.

(a) An action against an irrevocable letter of credit must be commenced within one year after the expiration date of the relevant letter of credit or one year after the cause of action accrues, whichever occurs later. A cause of action accrues when the breach occurs, regardless of the aggrieved party's lack of knowledge of the breach.

(b) In the event valid claims of borrowers and bona fide third parties against a bond or irrevocable letter of credit exceed the amount of the bond or deposit, each claimant shall only be entitled to a pro rata amount, based on the amount of the claim as it is valid against the bond or irrevocable letter of credit, without regard to the date of filing of any claim or action.

(c) A judgment arising from a violation of the Montana Mortgage Broker and Loan Originator Licensing Act or a rule adopted under that act shall be entered for actual damages and in no case be less than the amount paid by the borrower to the licensed mortgage broker plus reasonable attorneys' fees and costs. In no event shall the surety bond or approved alternative provide payment for any trebled or punitive damages.

(d) Borrowers and bona fide third parties shall be given priority over the department and other persons in distributions in actions against the surety bond. The remedies provided under this rule are cumulative and nonexclusive and do not affect any other remedy available at law. (History: 32-9-130, MCA; IMP, 32-9-123, MCA; NEW, 2004 MAR p. 1133, Eff. 5/7/04.)

2.59.1707 REVOCATION, SUSPENSION, OR SURRENDER OF LICENSE

(1) A licensee may surrender a license by delivering to the department written notice of surrender, but a surrender does not affect the licensee's civil or criminal liability for acts committed before the surrender.

(2) A revocation, suspension, or surrender of a license does not impair or affect the obligation of a preexisting lawful contract between the licensee and any person, including a borrower.

(3) In the event of a revoked, suspended, or surrendered mortgage broker or loan originator license, no fees will be refunded by the department. (History: 32-9-130, MCA; IMP, 32-9-126, MCA; NEW, 2004 MAR p. 1133, Eff. 5/7/04.)

2.59.1708 TABLE FUNDING REQUIRES LICENSURE (1) Any person not exempted from the Montana Mortgage Broker and Loan Originator Licensing Act under 32-9-104, MCA, who closes a mortgage loan naming themselves as the lender and who, within three days of closing, consummates sale of the mortgage loan note to another party, commonly known as "table funding" as defined in ARM 2.59.1701, must be licensed as a mortgage broker or loan originator. (History: 32-9-130, MCA; IMP, 32-9-103, 32-9-108, MCA; NEW, 2004 MAR p. 1133, Eff. 5/7/04.)

2.59.1709 CONSUMER COMPLAINT PROCESS (1) A complaint form will be provided by the department. A complaint must be submitted in writing to the department. If the basis of the complaint relates to the Montana Mortgage Broker and Loan Originator Licensing Act, it will be investigated by the department or designated party. (History: 32-9-130, MCA; IMP, 32-9-130, MCA; NEW, 2004 MAR p. 1133, Eff. 5/7/04.)

2.59.1710 RECORDS TO BE MAINTAINED (1) A mortgage broker shall create and retain a residential mortgage file. The residential mortgage file shall contain:

(a) a record of all cash, checks, or other monetary instruments received in connection with each mortgage loan application showing the identity of the payor, date received, amount, and purpose;

(b) applicant's name, date, name of person taking the application, HUD-1 Settlement Statement, copies of all agreements or contracts with the applicant, including any commitment and lock-in agreements, and all disclosures required by state and federal law signed and dated by the borrower, and where applicable, signed and dated by the individual mortgage broker or loan originator;

(c) a record of any and all contact between the mortgage broker or loan originator and the borrower relating to the rate, terms, or conditions of the loan;

(d) a copy of the evidence of insurance or insurance binder as required by the lender;

(e) a copy of the statement from the investor authorizing the loan;

(f) a copy of the appraisal;

(g) a copy of the borrower's credit report;

(h) a copy of all documentation used to support the borrower's income as required by the lender;

(i) a copy of all documentation used to support the borrower's assets as required by the lender;

(j) a copy of the promissory note;

(k) a copy of the policy of title insurance commitment on the property securing the loan;

(l) a copy of the first three pages of the deed of trust and final Truth in Lending disclosure signed by the borrower; and

(m) copies of all uniform residential loan applications.

(2) A mortgage broker shall maintain at its principal Montana location a trust account records file showing a sequential listing of checks written for each bank account relating to the licensee's business as a mortgage broker, showing at a minimum, check number, the payee, amount, date, and purpose of payment,

including identification of the loan to which it relates, if any. The licensee shall reconcile the bank accounts monthly.

(3) A mortgage broker shall maintain a spreadsheet of all residential mortgage applications taken, including all applications that are pending, closed, withdrawn, denied, or cancelled. The spreadsheet shall contain, at a minimum:

- (a) the first and last name of the borrower(s);
- (b) the property address (street, city, state, and zip code);
- (c) the phone number of the borrower(s);
- (d) the initial application date;
- (e) the date the credit report was requested for the borrower(s);
- (f) the loan amount;
- (g) the status of the loan (pending, closed, withdrawn, cancelled, denied);
- (h) the total fees received indirectly or directly by the mortgage broker at the closing of the loan;
- (i) the total yield spread premium received by the mortgage broker at the closing of the loan; and
- (j) the name of the individual mortgage broker or loan originator who originated the loan. (History: 32-9-130, MCA; IMP, 32-9-121, 32-9-124, 32-9-125, MCA; NEW, 2006 MAR p. 2104, Eff. 9/8/06; AMD, 2008 MAR p. 2034, Eff. 9/26/08.)

2.59.1711 CONTINUING EDUCATION (1) "Hour" as used in 32-9-118, MCA, means 50 minutes of instruction.

(2) Beginning June 1, 2009, and annually thereafter, all individual mortgage brokers and loan originators must complete a minimum of one hour of the required 12 hours of continuing education each year reviewing the Montana Mortgage Broker and Loan Originator Licensing Act and Administrative Rules of Montana (ARM) Title 2, chapter 59, subchapter 17. The course must be presented by a provider approved by the department.

(3) The continuing education year is from June 1 to May 31. Failure to complete continuing education requirements by May 31 will result in the revocation of license as of June 30. The mortgage broker or loan originator must then apply as a new applicant.

(4) No more than six hours of continuing education credits may be carried over to the next licensing year. The request for continuing education credits to be carried over must be submitted with the renewal application for which the education credits were taken.

(5) The department may provide continuing education courses at its discretion. The department may charge a fee to the attendees of \$12.50 per hour of continuing education. The fees are nonrefundable. (History: 32-9-130, MCA; IMP, 32-9-130, MCA; NEW, 2008 MAR p. 2034, Eff. 9/26/08.)

2.59.1712 DESIGNATED MANAGERS (1) The designated manager is responsible for assuring that all licensees working for the mortgage broker entity comply with:

- (a) Title 32, chapter 9, part 1, MCA;
 - (b) these rules; and
 - (c) all applicable federal laws and rules incorporated therein.
- (2) The designated manager is responsible for educating all employees on the mortgage broker entity's policies and the need to adhere to them. (History: 32-9-130, MCA; IMP, 32-9-103, 32-9-122, MCA; NEW, 2008 MAR p. 2034, Eff. 9/26/08.)

2.59.1713 EXAMINATIONS (1) Upon receiving a complaint, or at its discretion, the department may examine any office, place of business, or location where records may be found of any licensee or person who may be in violation of Title 32, chapter 9, part 1, MCA, or these rules. The department shall examine for compliance with the applicable state law and all rules and regulations promulgated thereunder.

(2) At the end of an examination, the department shall provide the examinee with an oral and written report. (History: 32-9-130, MCA; IMP, 32-9-130, MCA; NEW, 2008 MAR p. 2034, Eff. 9/26/08.)

2.59.1714 FAILURE TO CORRECT DEFICIENCIES (1) In addition to all other enforcement actions allowed by Montana law, the department may suspend or revoke a license pursuant to Title 2, chapter 4, part 6, MCA, of an entity that does not correct the deficiencies found by the department after an examination and within the time granted by the department. (History: 32-9-130, MCA; IMP, 32-9-130, 32-9-133, MCA; NEW, 2008 MAR p. 2034, Eff. 9/26/08.)

2.59.1715 GROUNDS FOR THE DENIAL OF AN APPLICATION

(1) Any false statement or omission of fact from the statement of the applicant required by 32-9-115 and 32-9-116, MCA, shall be sufficient grounds to deny a license to an applicant. Any material false statement and any material omission of fact in an application shall be grounds for denial of a license. (History: 32-9-130, MCA; IMP, 32-9-115, 32-9-116, 32-9-130, MCA; NEW, 2008 MAR p. 2034, Eff. 9/26/08.)

2.59.1716 COSTS IN BRINGING THE ADMINISTRATIVE ACTION

(1) Costs in bringing the administrative action as used in 32-9-133, MCA, shall include:

- (a) examiner time charges;
- (b) department legal counsel time charges;
- (c) administrative law judge charges;
- (d) court reporter costs;
- (e) transcription fees;
- (f) document preparation fees;
- (g) other hearing costs;
- (h) costs of subpoenaing documents;
- (i) any other cost incurred by the department in bringing the action; and
- (j) travel costs. (History: 32-9-130, MCA; IMP, 32-9-133, MCA; NEW, 2008

MAR p. 2034, Eff. 9/26/08.)

2.59.1717 SCHEME TO DEFRAUD OR MISLEAD (1) For purposes of 32-9-124, MCA, a scheme to defraud or mislead a borrower, a lender, or any other person shall include but is not limited to:

(a) misstating a borrower's income, assets, obligations, employment status, credit history, or financial resources, or the borrower's equity in the dwelling which secures repayment of the loan to a lender;

(b) stating to a lender, or more than one lender, that a borrower intends to use more than one property as a primary residence;

(c) charging or accepting any fees in excess of fees that have been or will be remitted to third parties; and;

(d) failing to disburse funds in accordance with any commitment or agreement with the borrower. (History: 32-9-130, MCA; IMP, 32-9-124, MCA; NEW, 2008 MAR p. 2034, Eff. 9/26/08.)